UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,595	02/12/2001	David Funk	41803/DBP/C664	9488

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EXAMINER
YUSSUF, SAJID

ART UNIT	PAPER NUMBER
2141	6

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 February 2001 and 02 August 2002*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 February 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4/06/August/2001*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____ .

DETAILED ACTION

Oath/Declaration

1.   It does not include the notary's signature, or the notary's signature is in the wrong place.

2.   It does not include the notary's seal and venue.

Specification

3.   The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

4.   Claims 1,11 objected to because of the following informalities:

    a.   As per claim 1 Line 3 Applicant states the word effect in which the Examiner suggests that the Applicant replace "effect" with "affect."

    b.   As per claim 11 Line 10 Applicant states the word effect in which the Examiner suggests that the Applicant replace "effect" with "affect."

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

6.   The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7.   Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It would appear that Applicant is attempting to claim a process without setting forth any clear method steps in the process which raises an issue if indefiniteness (See MPEP 2173.05).

Claim Rejections - 35 USC § 101

8.   Claim 1 rejected under 35 U.S.C. 101 because it is not a proper process or specific means.

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another
filed in the United States before the invention thereof by the applicant for patent, or on an
international application by another who has fulfilled the requirements of paragraphs (1),
(2), and (4) of section 371(c) of this title before the invention thereof by the applicant for
patent.

10.   The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not

apply when the reference is a U.S. patent resulting directly or indirectly from an international

application filed before November 29, 2000. Therefore, the prior art date of the reference is

determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

***11.   Claim(s) 1-18 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Araujo et
al. (US Patent Application Publication No. 2001/0047406 and Araujo hereinafter).***

12.   As per claim(s) 1 Araujo discloses a processing unit capable of running a Unix operating

system and adapted, in use, to effect at least one management function associated with the network

element, (See Paragraph(s) 0096).

13.   As per claim(s) 2 Araujo teaches the claimed invention as described in claim(s) 1 above and

furthermore discloses the management function comprises the distribution of one or more of the

group of alarm reports, audit logs, alarm logs, status reports and control messages, (See

Paragraph(s) 0027,0038, and 0089).

14.   As per claim(s) 3 Araujo teaches the claimed invention as described in claim(s) 1-2 above and furthermore discloses the processing unit includes a mass storage device for storing the Unix operating system and associated files and utilities, (See Paragraph(s) 0091, and 0096).

15.   As per claim(s) 4 Araujo teaches the claimed invention as described in claim(s) 1-3 above and furthermore discloses one or more network management application programs, protocol implementations and kernel modules adapted to operate on the Unix operating system, (See Paragraph(s) 0096).

16.   As per claim(s) 5 Araujo teaches the claimed invention as described in claim(s) 1-4 above and furthermore discloses the application programs comprises on or more of the group of an electronic mail application, and a web server application, (See Paragraph(s) 0003).

17.   As per claim(s) 6 Araujo teaches the claimed invention as described in claim(s) 1-5 above and furthermore discloses the application one or more of the group of an electronic mail application, and a web wherein the protocol implementations comprise one or more of the group of a Common Object Request Broker Architecture (CORBA) implementation, a Simple Network Management Protocol (SNMP) implementation, a Multi-protocol Label Switching (MPLS) implementation and a Multi-Protocol Lambda Switching (MPLS) implementation, (See Paragraph(s) 0027-0030).

18.   As per claim(s) 7 Araujo teaches the claimed invention as described in claim(s) 1-6 above and furthermore discloses the kernel modules comprise Internet firewall kernel modules, (See Paragraph(s) 0092-0096).

19.   As per claim(s) 8 Araujo teaches the claimed invention as described in claim(s) 1-7 above and furthermore discloses the processing unit further includes an interface to a system interconnect bus within the network element, via which it is able to obtain real-time information regarding the components comprising the network element for distribution in alarm reports, audit logs, alarm logs

and status reports, and via which it is also able to control the operation of the components comprising the network element in accordance with control messages received, (See Paragraph(s) 0091-0106).

20. As per claim(s) 9 Araujo teaches the claimed invention as described in claim(s) 1-8 above and furthermore discloses the processing unit further includes an interface to external network operator and/or network subscriber networks, via which network operators and/or subscribers are able to monitor alarm reports, audit logs, alarm logs and status reports, and via which network operators and/or subscribers are able to issue control messages, (See Paragraph(s) 0009-0096).

21. As per claim(s) 10 Araujo teaches the claimed invention as described in claim(s) 1-9 above and furthermore discloses the network element comprises a network node or an in-line amplifier, (See Paragraph(s) 0033-0036).

22. As per claim(s) 11 Araujo discloses a processing unit capable of running a Unix operating system and adapted, in use, to effect at least one management function associated with the network element, (See Paragraph(s) 0096).

23. As per claim(s) 12 Araujo teaches the claimed invention as described in claim(s) 11 above and furthermore discloses the management function comprises the distribution of one or more of the group of alarm reports, audit logs, alarm logs, status reports and control messages, (See Paragraph(s) 0027).

24. As per claim(s) 13 Araujo discloses transmitting management data directly between processing units located at individual network elements of the optical network, wherein the management data is processed within each processing unit on a Unix operating system, (See Paragraph(s) 0038 and 0096).

25.   As per claim(s) 14 Araujo teaches the claimed invention as described in claim(s) 13 above and furthermore discloses data associated with alarm reports, audit logs, alarm logs, status reports and control messages, (See Paragraph(s) 0027, 0038, and 0089).

26.   As per claim(s) 15 Araujo teaches the claimed invention as described in claim(s) 13-14 above and furthermore discloses the management data is processed utilizing one or more network management application programs, protocol implementations and kernel modules adapted to operate on the Unix operating system, (See Paragraph(s) 0096).

27.   As per claim(s) 16 Araujo teaches the claimed invention as described in claim(s) 13-15 above and furthermore discloses the application programs comprise one or more of the group of an electronic mail application, and a web server application, (See Paragraph(s) 0003).

28.   As per claim(s) 17 Araujo teaches the claimed invention as described in claim(s) 13-16 above and furthermore discloses the protocol implementations comprises one or more of the group of an SSH implementation, a CORBA implementation, an SNMP implementation, an MPLS implementation and an MPIS implementation, (See Paragraph(s) 0027).

29.   As per claim(s) 18 Araujo teaches the claimed invention as described in claim(s) 13-17 above and furthermore discloses the kernel modules comprises Internet firewall kernel modules, (See Paragraph(s) 0092-0096).

Conclusion

30.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajid A Yussuf whose telephone number is (703) 305-8752. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM and Alternate Fridays.
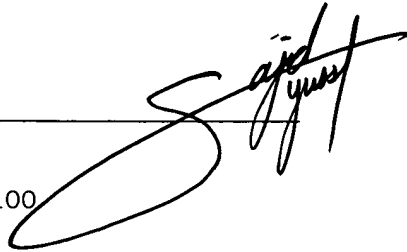
31.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

32.   Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-3900.

Sajid Yussuf
Patent Examiner
Technology center 2100
24 May 2004

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER